

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK CITY DISTRICT
COUNCIL OF CARPENTERS PENSION
FUND, et al.,

Plaintiffs, :

-v-

METROPOLITAN MILLWORK AND
INSTALLATIONS, INC.,

Defendant. :

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>6/25/12</u>

10 Civ. 5177 (JMF)

ORDER ADOPTING
REPORT AND
RECOMMENDATION

JESSE M. FURMAN, District Judge:

This matter, involving a petition to confirm and enforce an arbitration award, was referred to Magistrate Judge Pitman for a Report and Recommendation when defendant failed to respond to the petition and plaintiffs moved for a default judgment. In a Report and Recommendation filed on June 5, 2012, Magistrate Judge Pitman recommended that the Court (1) treat plaintiffs' motion for default judgment as one for summary judgment; (2) confirm the arbitration award; (3) deny plaintiffs' application for attorneys' fees incurred in this action, but allow them thirty (30) days to submit contemporaneous time records supporting their fee application; and (4) award plaintiffs \$60.00 for costs. (See Report and Recommendation § 4 (Docket No. 17)).

The Report and Recommendation advised the parties that they had fourteen (14) days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. (*See id.* § 5). As of the date of this Order, no objections have been filed. On June 22, 2012, however, the Court received a letter from defense counsel requesting a one-week extension to file an objection. Counsel indicated that his only objection would be to Magistrate Judge Pitman's recommendation that plaintiffs be given time to correct their failure to provide contemporaneous time records in support of their application for attorneys' fees. (*See* June 20, 2012 Letter (Docket No. 18)).

There is no reason to grant defendant's request for an extension because Magistrate Judge Pitman recommended denying plaintiffs' application for attorneys' fees. To be sure, Magistrate Judge Pitman recommended allowing plaintiffs thirty (30) days to submit adequate records in support of their request. But there is no reason for defendant to object to the award of attorneys' fees unless and until plaintiffs submit the additional paperwork in support of their request. Accordingly, defendant's request for an extension of time to file its limited objection is denied without prejudice to filing opposition papers if or when the issue of attorneys' fees ripens.

The Report and Recommendation expressly called the parties' attention to Rule 72 of the Federal Rules of Civil Procedure and Title 28, United States Code, Section 636(b)(1). (*See id.*) The parties received clear notice of the consequences of the failure to object and, defendant's request for an extension aside, have waived their right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

Despite the waiver, the Court has reviewed the Report and Recommendation, unguided by objections, and finds it to be well reasoned and grounded in fact and law. There is no reason why, in the interests of justice, the waiver of the right to object should not be enforced.

The Court has reviewed the pleadings and the arguments advanced by the parties in this action. The Report and Recommendation is adopted in its entirety. In the event that plaintiffs submit additional documentation in support of their request for attorneys' fees within 30 days of this order, defendant shall have one week from such submission of those documents to file its opposition to that request and plaintiffs shall have one week thereafter to reply.

Counsel are reminded that, per the Court's individual rules, any letters to the Court must be submitted as .PDF attachments by e-mail.

SO ORDERED.

Dated: June 25, 2012
New York, New York



JESSE M. FURMAN
United States District Judge